



WISCONSIN LEGISLATIVE COUNCIL

Special Committee Staff Brief 02-6

REVIEW OF WISCONSIN FIREWORKS LAW

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STAFF BRIEF 02-6

REVIEW OF WISCONSIN FIREWORKS LAW

INTRODUCTION

The Joint Legislative Council established the Special Committee on Review of Fireworks Law, and appointed the co-chairs by a May 15, 2002 mail ballot and appointed a total of 14 members by a July 8, 2002 mail ballot. The Council directed the Special Committee to:

Study issues surrounding the sale, possession, and use of fireworks in Wisconsin; review current Wisconsin law regulating fireworks, including the interaction between state and federal law and the impact of the law on fireworks retailers, local units of government, the law enforcement community, the state economy, and the public; and recommend improvements to the law.

This Staff Brief was prepared for the Special Committee. This Staff Brief is organized as follows:

- **Part I** provides a brief overview of federal law pertaining to fireworks.
- **Part II** describes Wisconsin law regulating the sale, possession, and use of fireworks.
- **Part III** describes the fireworks law of the five states contiguous to Wisconsin.

Included as an **Appendix** to this Staff Brief is a copy of s. 167.10, Stats., “Regulation of Fireworks.”

[Mary Matthias, Senior Staff Attorney, and Dan Schmidt, Staff Analyst, Legislative Council staff for the Joint Legislative Council's Special Committee on Review of Fireworks Law prepared this brief.]

PART I
FEDERAL FIREWORKS LAW

Under federal law, the Consumer Product Safety Commission (CPSC) regulates all consumer fireworks, or Class 1.4G explosives (previously referred to as Class C explosives). Consumer fireworks are those generally intended for personal use or in and around a household. Display fireworks, or Class 1.3G explosives are illegal to possess, manufacture, or transport without a federal permit. Display fireworks are generally regulated by the Bureau of Alcohol, Tobacco and Firearms as are other large-scale explosives. Consumer fireworks not banned by the CPSC are generally considered legal for the purposes of federal law, but are subject to and may be prohibited by state or local laws.

Manufacturers of consumer fireworks must meet a number of safety and labeling requirements or their products may be banned by the CPSC. [See 16 C.F.R. Parts 1500 and 1507.] The CPSC generally prohibits the use, sale, or interstate transportation of the following types of consumer fireworks:

- Fireworks devices intended to produce audible effects if the audible effect is produced by a charge of more than 130 milligrams (mg) (2 grains) of pyrotechnic composition. This includes rockets, cherry bombs, M-80 salutes, silver salutes and other large firecrackers, aerial bombs, or other types of reports found in similar devices.¹
- Firecrackers designed to produce audible effects, if the audible effect is produced by a charge of more than 50 milligrams (.772 grains) of pyrotechnic composition, aerial bombs, cherry bombs, M80s, and other large firecrackers or similar devices.²
- Fireworks devices that may be confused with candy or other foods including: dragon eggs, cracker balls, and other ball type caps or similar devices.
- All fireworks devices, other than firecrackers, not otherwise banned as hazardous substances that do not comply with specified CPSC safety requirements found under 16 C.F.R. Part 1507.
- Reloadable tube aerial shell fireworks that use shells larger than 1.75 inches in outer diameter. [See s. 16 C.F.R. Part 1500.17 (a) (3), (8), (9) and (11).]

¹ CPSC summaries indicate that the 130 mg powder limit applies to aerial fireworks.

² CPSC summaries indicate that the 50 mg powder limit applies to firecrackers and other ground-based fireworks devices.

In addition to these specified items, the CPSC generally prohibits the use of kits or components intended to build such banned fireworks.

Finally, federal law prohibits the transportation to or delivery of fireworks into any state in which the transporting individual knows that the fireworks are prohibited. [See 18 U.S.C. s. 836.] This prohibition does not apply to continuous interstate transportation through a state. Violations are generally punishable by fines of up to \$1,000, up to one-year imprisonment, or both.

PART II

WISCONSIN FIREWORKS LAW

This part of the Staff Brief describes Wisconsin law governing the possession, sale, use, handling, storage, and manufacture of fireworks in Wisconsin. State law generally ***prohibits*** the sale, possession, and use of most items commonly thought of as fireworks, including firecrackers, roman candles, and bottle rockets. State law generally ***allows*** the sale, possession, and use of less powerful devices such as sparklers, snakes, caps, and small fountains. State law also allows the sale of fireworks to an organization that possesses a valid fireworks user's permit but does not authorize the issuance of permits to the general public. A local government may, with certain exceptions, enact an ordinance regulating or prohibiting fireworks which is more restrictive than state law.

A. DEFINITION OF FIREWORKS

The statutory definition of the term "fireworks" is important to understanding Wisconsin fireworks law because the sale, use, or possession of the items included in the definition is generally prohibited in the state. "Fireworks" is defined as "anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use."

The following devices are expressly excluded from the definition of fireworks and are generally legal in the state:

- Fuel or a lubricant.
- A firearm cartridge or shotgun shell.
- A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft, or motor vehicle.
- A match, cigarette lighter, stove, furnace, candle, lantern, or space heater.
- A cap containing not more than 1/4 grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- A toy snake which contains no mercury.
- A model rocket engine.
- Tobacco and a tobacco product.

- A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.
- A device designed to spray out paper confetti or streamers and which contains less than 1/4 grain of explosive mixture.
- A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than 1/4 grain of explosive mixture.
- A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.
- A cylindrical fountain that consists of one or more tubes and that is classified by the federal Department of Transportation as a Division 1.4 explosive, as defined in 49 C.F.R. s. 173.50.
- A cone fountain that is classified by the federal Department of Transportation as a Division 1.4 explosive, as defined in 49 C.F.R. s. 173.50.

The items that fall within the definition of “fireworks” are subject to all of the restrictions described in this part of the Staff Brief and may be more strictly regulated by local governments at their option. Items that are excluded from the definition of “fireworks” generally are not subject to state regulation, but are subject to local regulation at the option of the local government. Local regulation of fireworks is described in detail in Section D., below.

As discussed in Part I, above, federal law categorizes fireworks as either “display” fireworks or “consumer” fireworks and generally allows consumer fireworks to be sold to and used or possessed by the public. In Wisconsin, only a small subset of “consumer” fireworks may be sold to and used or possessed by the general public; most “consumer” fireworks are regulated to the same extent as are display fireworks. [s. 167.10 (1), Stats.]

B. POSSESSION AND USE OF FIREWORKS

With certain exceptions, no person in Wisconsin may possess or use fireworks without a fireworks user’s permit. From a review of the statutes and judicial interpretation of those statutes, it appears that fireworks permits are intended to be issued to organizations to authorize the purchase of fireworks for the purpose of putting on displays, not to individuals for the purchase of fireworks for personal use.

Who May Issue Permits

A fireworks user's permit may only be issued by one of the following:

1. The mayor of the city, president of the village or chairperson of the town in which the possession or use is to occur.
2. An official of the city, village, or town designated by the mayor of the city, president of the village, or chairperson of the town in which the possession or use of fireworks is to occur.
3. An employee of the city, village, or town in which the possession or use of fireworks is to occur, designated by the mayor of the city, president of the village, or chairperson of the town.

[s. 167.10 (3) (a), Stats.]

Exceptions From the Requirement to Obtain a Permit

The requirement to obtain a fireworks user's permit does not apply to any of the following:

1. A city, village, or town. However, municipal fire and law enforcement officials must be notified of the proposed use of fireworks by the city, village, or town at least two days in advance.
2. The possession or use of explosives in accordance with rules or general orders of the Department of Commerce.
3. The disposal of hazardous substances in accordance with rules adopted by the Department of Natural Resources (DNR).
4. The possession or use of explosive or combustible materials in any manufacturing process.
5. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
6. A person who possesses or manufactures explosives who has a license or permit issued under federal law.
7. A person who possesses fireworks in any city, village, or town while the person is transporting the fireworks to a city, village, or town where the possession of the fireworks is authorized by permit or ordinance, if the person does not remain in the city, village, or town through which the person is transporting the fireworks for more than 12 hours.

[s. 167.10 (3) (b) and (bm), Stats.]

Who May Obtain a Permit

A city, village, or town may issue a fireworks user's permit only to the following:

1. A public authority.
2. A fair association.
3. An amusement park.
4. A park board.
5. A civic organization.
6. A group of resident or nonresident individuals.
7. An agricultural producer for the protection of crops from predatory birds or animals. (A person issued a permit for crop protection must erect appropriate warning signs disclosing the use of fireworks for crop protection.)

[s. 167.10 (3) (c), Stats.]

In *Wisconsin Dells v. Dells Fireworks, Inc.*, 197 Wis. 2d 1; 539 N.W.2d 916 (Ct. App. 1995), the Wisconsin Court of Appeals ruled that a fireworks user's permit issued to a group authorizes the sale of fireworks only to that group, not to the individual members of the group. A group may authorize individuals to act on its behalf in purchasing fireworks, but a fireworks user's permit may not be issued to any ***individual*** other than an agricultural producer for the protection of crops. The court stated that s. 167.10, Stats., provides for the strict regulation of the sale and use of fireworks, and that the purpose of permits is to give the issuing municipality the ability to carefully control the use and possession of fireworks within its boundaries.

Required Elements of a Permit

A fireworks user's permit must specify all of the following:

1. The name and address of the permit holder.
2. The date on and after which fireworks may be purchased.
3. The kind and quantity of fireworks which may be purchased.
4. The date and location that the fireworks purchased pursuant to the permit may be used.
5. Any other special conditions prescribed by local ordinance.

[s. 167.10 (3) (f), Stats.]

Other Permit Requirements

A copy of any fireworks user's permit that is issued must be given to the municipal fire or law enforcement official at least two days before the date of authorized use.

A fireworks user's permit may not be issued to a minor.

A city, village, or town issuing a fireworks user's permit may require the user to take an indemnity bond or a liability insurance policy, in the name of the city, village, or town, for the payment of all claims that may arise by reason of injuries to person or property from the handling, use, or discharge of fireworks under the permit. [s. 167.10 (3) (e), (g) and (h), Stats.]

C. SALE OF FIREWORKS

General

No person may sell fireworks or possess fireworks with the intent to sell them, ***except*** that a person may sell fireworks:

1. To a person holding a fireworks user's permit, as described above in Section B.;
2. To a city, village, or town; or
3. For one of the following specific purposes enumerated in the statutes: possession or use of explosives in accordance with rules or general orders of the Department of Commerce, the disposal of hazardous substances in accordance with rules adopted by the DNR, for use in any manufacturing process, for use in connection with classes conducted by educational institutions, or pursuant to a federal license or permit.

[s. 167.10 (2), Stats.]

Sales To Nonresidents

All laws regarding the sale, use, and possession of fireworks apply equally to state residents and nonresidents when they are physically within the state.

Section 167.10 (4) states that:

This section [s. 167.10, Stats.] does not prohibit a resident wholesaler or jobber from selling fireworks to either of the following:

1. A person or group who has been granted a fireworks user's permit by a city, village, or town; or
2. A person ***outside of this state***. [Emphasis added.]

The statutes specify that a resident wholesaler or jobber that ships fireworks must package and ship the fireworks in accordance with applicable state and federal law by common motor carrier, contract motor carrier, or private motor carrier.

The provision permitting the sale of fireworks to “a person outside of this state” was interpreted by the Wisconsin Court of Appeals in *State v. Victory Fireworks, Inc.*, Nos. 99-0243 to 99-0251, slip op. [Wis. Ct. App. (Sept. 30, 1999)]. The court ruled that this provision does not permit the sale of fireworks within the state’s boundaries to nonresidents. The court stated that the provision permits the sale of fireworks to one person who, at the time of the sale, is physically located outside of the boundaries of Wisconsin.

D. LOCAL REGULATION OF THE SALE, POSSESSION, OR USE OF FIREWORKS

Local municipalities may choose to regulate fireworks more strictly than they are regulated by state statutes. Specifically, a city, village, town, or county may enact an ordinance to do any of the following:

1. Define “fireworks” to include anything manufactured, processed, or packaged for exploding, emitting sparks or combustion which does not have another common use, including items exempt from the definition of fireworks under state law.
2. Prohibit the sale, possession, or use of the devices included within the ordinance’s definition of fireworks.
3. Regulate the sale, possession, or use of the devices included within the ordinance’s definition of fireworks.

[s. 167.10 (5) (a), Stats.]

A local ordinance may not be less restrictive in its coverage, prohibition, or regulation than state law regulating fireworks, but an ordinance may be more restrictive than state law. [s. 167.10 (5) (b), Stats.]

A county ordinance pertaining to fireworks does not apply in and may not be enforced within any city, village, or town that has enacted an ordinance pertaining to fireworks. [s. 167.10 (5) (c), Stats.]

No city, village, town, or county may enact an ordinance that prohibits the possession of fireworks in that city, village, town, or county while transporting the fireworks to a city, village, town, or county where the possession of the fireworks is authorized by permit or ordinance. [s. 167.10 (5) (e), Stats.]

E. STORAGE AND HANDLING OF FIREWORKS

No wholesaler, dealer, or jobber may store fireworks within 50 feet of a dwelling, or store or handle fireworks in a premises unless the premises are equipped with fire extinguishers approved by the fire official of the municipality where the premises are located.

A person who stores or handles fireworks must notify the fire official of the municipality in which the fireworks are stored or handled of the location of the fireworks.

No person may smoke where fireworks are stored or handled or store fireworks within 50 feet of a public assemblage or a place where gasoline or volatile liquid is sold in quantities exceeding one gallon. [s. 167.10 (6) (a) to (e), Stats.]

F. DISPOSAL OF SEIZED FIREWORKS

Fireworks that are stored, handled, sold, possessed, or used by a person who violates the state statutes regulating fireworks, a local ordinance regulating fireworks or a court order enjoining violation of state law or local ordinance may be seized by a law enforcement officer. The fireworks that are the subject of a violation may be destroyed if there is a conviction; otherwise, the fireworks are to be returned to the owner in the same condition as they were when seized, to the extent practicable. [s. 167.10 (8) (b), Stats.]

G. MANUFACTURE OF FIREWORKS

No person may manufacture fireworks in Wisconsin without a license to manufacture fireworks issued by the Department of Commerce. Any person who manufactures fireworks in this state must comply with the rules of the Department of Commerce governing fireworks manufacturing. The Department of Commerce may, at reasonable times, inspect the premises of a person licensed to manufacture fireworks. The Department of Commerce may revoke a manufacturer's license for refusal to permit an inspection by the department or for a continuing violation of Department of Commerce rules regarding the manufacture of fireworks. [s. 167.10 (6m), Stats.]

H. PARENTAL LIABILITY

A parent, foster parent, treatment foster parent, family-operated group home parent, or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damage caused by the minor's use of the fireworks. In addition, a parent or legal guardian of a minor who consents to the use of fireworks by the minor shall be required to forfeit no more than \$1,000. [s. 167.10 (7) and (9) (c), Stats.]

I. PENALTIES

A person who violates a state law or local ordinance pertaining to fireworks shall be required to forfeit not more than \$1,000. [s. 167.10 (9) (b), Stats.] In addition, a city, village, or town may petition the circuit court for an order enjoining violations of state law or local ordinance pertaining to fireworks. A person who violates a court order pertaining to fireworks shall be fined not more than \$10,000 or imprisoned not more than nine months, or both. [s. 167.10 (8) (a) and (9) (a), Stats.]

A person who violates the laws or Department of Commerce rules regarding manufacture of fireworks may be fined not more than \$10,000 or imprisoned not more than 15 years, or both. [s. 167.10 (9), Stats.]

PART III
BORDER STATES' FIREWORKS LAWS

The states bordering Wisconsin (Michigan, Minnesota, Illinois, and Iowa) generally have laws that are as restrictive or even somewhat more restrictive than those in Wisconsin. A summary discussion of the Wisconsin border states' laws follows.

A. MICHIGAN

Michigan statutes generally prohibit the sale, possession, transportation, and use of devices made from explosive or flammable compositions that are used primarily for producing a visual display or audible effect. The following devices are specifically prohibited: firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, bottle rockets, whistling chasers, bombs, or other fireworks of similar construction. Specifically permitted are paper caps with .25 of a grain of explosive or less per cap, toys which use such caps that are approved by the director of the department of the state police, sparklers containing not more than .0125 pounds of burning portion per sparkler, flitter sparklers in paper tubes not exceeding 1/8 of an inch in diameter, cone fountains, cylinder fountains, certain toy snakes, and toy smoke devices. In addition, the use of certain signal flares and blank cartridges and pistols are permitted under specified circumstances. [s. 750.243a, Michigan Penal Code.]

Michigan statutes provide that a municipality may grant a permit for the use of fireworks that are otherwise prohibited, within their political jurisdiction, for public display by a municipality, fair association, amusement park or other organization, or group of individuals approved by the municipality. [s. 750.243b (1), Michigan Penal Code.] Before a permit for a fireworks display may be issued, the person, firm, or corporation applying for the permit must furnish proof of financial responsibility by a bond or insurance in an amount deemed necessary by the local governing authority to satisfy claims for damages to property or personal injuries arising out of an act or omission of the person, firm, or corporation. [s. 750.243b (3), Michigan Penal Code.]

Michigan law provides that fireworks may be transported within the state only if a permit authorizing possession of those fireworks has been issued by a municipality. Further, all fireworks transported in the state must be transported in accordance with the U.S. Department of Transportation regulations for transportation of explosives and other dangerous articles by motor, rail, and water, including specifications for shipping containers. The fireworks may only be transported in nonpassenger carrying vehicles that are equipped with a 15-pound carbon dioxide or a 10-pound dry chemical fire extinguisher. [s. 750.243c, Michigan Penal Code.]

The sale of prohibited fireworks is permitted only if the fireworks are shipped directly out of the state and pursuant to U.S. Department of Transportation regulations. [s. 750.243a, Michigan Penal Code.]

B. MINNESOTA

Minnesota law generally prohibits the sale, possession, and use of fireworks including: firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, bottle rockets, whistling chasers, bombs, or other fireworks of similar construction. Minnesota law also prohibits any fireworks containing any explosive or inflammable compound, or any tablets or other device containing an explosive substance commonly used as fireworks. As of April 30, 2002, Minnesota law permits the sale, possession, and use of certain nonexplosive and nonaerial fireworks. Examples of permitted fireworks include sparklers of up to 100 grams of mixture per item, other sparkling items which contain 75 grams or less of chemical mixture per tube or 200 grams total for multiple tubes, snakes and glowworms, smoke devices and poppers containing .25 grains of explosive mixture. The use of permitted fireworks is prohibited on public property and purchasers must be at least 18 years of age. [ss. 624.20 and 624.21, Minn. Stats.]

A municipality may issue a permit for a fireworks display only to an operator certified by the state fire marshal. In order to be certified as an operator, a person must have achieved a passing score on a written examination regarding standards of safe practices for the discharge and display of fireworks. All applications for a fireworks display permit must be referred to the chief of the local fire department who must make an investigation to determine: (1) whether the operator of the display is competent and is certified by the state fire marshal; and (2) whether the display will be hazardous to property or endanger any person. After a permit has been granted, sales, possession, use, and distribution of fireworks for the display are lawful for that purpose only. [s. 624.22, Minn. Stats.]

The general prohibition on the sale of fireworks does not prohibit the possession or sale of any kind of fireworks for shipment directly out of state. [s. 624.23, Minn. Stats.]

C. ILLINOIS

Illinois statutes generally prohibit the possession, sale, and use of explosive or combustion fireworks, including all of the following: firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, bottle rockets, whistling chasers, bombs, or other fireworks of similar construction. Illinois law permits the use of sparklers, glow worms and snakes, smoke devices, trick noisemakers and caps containing .025 grain or less explosive compound. State law specifically allows municipalities to prohibit the sale and use of sparklers on public property. [425 ILCS 35/1.]

Illinois law authorizes municipalities to adopt reasonable rules and regulations for the granting of permits for *supervised public displays of fireworks*. A permit may be granted to a group of three or more adult individuals and may only be issued after inspection of the display site by the issuing officer to determine that the display will not be hazardous to property or endanger any person. A bond of at least \$1,000 must be filed for all permit requestors who are not municipalities. [425 ILCS 35/2.]

Illinois law does not prohibit the sale of any kind of fireworks provided the fireworks are shipped directly out of the state. [425 ILCS 30/13.1.]

D. IOWA

Iowa statutes generally prohibit the sale and use of fireworks, which includes all of the following: firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, bottle rockets, whistling chasers, bombs or other fireworks of similar construction, and fireworks that contain any explosive or flammable compound or other device containing any explosive substance. Iowa law expressly permits the use of goldstar-producing sparklers which do not contain magnesium, chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed 1/8 of an inch in diameter, toy snakes that do not contain mercury, and caps used in cap pistols. [s. 727.2, Iowa Code.]

Iowa law authorizes a city or county to grant a permit for the display of fireworks by a municipality, fair association, amusement park, or other organization or group of individuals approved by the city or county when a competent operator will handle the fireworks display. [s. 727.2, Iowa Code.]

Iowa law does not prohibit the sale of fireworks if they are shipped out of state. [s. 727.2, Iowa Code.]

Section 167.10, Stats.

167.10 Regulation of fireworks. (1) DEFINITION. In this section, “fireworks” means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

- (a) Fuel or a lubricant.
 - (b) A firearm cartridge or shotgun shell.
 - (c) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
 - (d) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
 - (e) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
 - (f) A toy snake which contains no mercury.
 - (g) A model rocket engine.
 - (h) Tobacco and a tobacco product.
 - (i) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.
 - (j) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
 - (k) A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture.
 - (L) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.
 - (m) A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
 - (n) A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
- (2) SALE.** No person may sell or possess with intent to sell fireworks, except:

- (a) To a person holding a permit under sub. (3) (c);
- (b) To a city, village or town; or
- (c) For a purpose specified under sub. (3) (b) 2. to 6.

(3) USE. (a) No person may possess or use fireworks without a user's permit from the mayor of the city, president of the village or chairperson of the town in which the possession or use is to occur or from an official or employee of that municipality designated by the mayor, president or chairperson. No person may use fireworks or a device listed under sub. (1) (e) to (g) or (i) to (n) while attending a fireworks display for which a permit has been issued to a person listed under par. (c) 1. to 5. or under par. (c) 6. if the display is open to the general public.

(b) Paragraph (a) does not apply to:

1. The city, village or town, but municipal fire and law enforcement officials shall be notified of the proposed use of fireworks at least 2 days in advance.

2. The possession or use of explosives in accordance with rules or general orders of the department of commerce.

3. The disposal of hazardous substances in accordance with rules adopted by the department of natural resources.

4. The possession or use of explosive or combustible materials in any manufacturing process.

5. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.

6. A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841 to 848 if the possession of the fireworks is authorized under the license or permit.

7. Except as provided in par. (bm), the possession of fireworks in any city, town or village while transporting the fireworks to a city, town or village where the possession of the fireworks is authorized by permit or ordinance.

(bm) Paragraph (a) applies to a person transporting fireworks under par. (b) 7. if, in the course of transporting the fireworks through a city, town or village, the person remains in that city, town or village for a period of at least 12 hours.

(c) A permit under this subsection may be issued only to the following:

- 1. A public authority.
- 2. A fair association.
- 3. An amusement park.

4. A park board.
5. A civic organization.
6. A group of resident or nonresident individuals.
7. An agricultural producer for the protection of crops from predatory birds or animals.

(d) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.

(e) The person issuing a permit under this subsection may require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy, if required, shall be taken in the name of the city, village or town wherein the fireworks are to be used, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, if required, together with a copy of the permit shall be filed in the office of the clerk of the city, village or town.

(f) A permit under this subsection shall specify all of the following:

1. The name and address of the permit holder.
2. The date on and after which fireworks may be purchased.
3. The kind and quantity of fireworks which may be purchased.
4. The date and location of permitted use.
5. Other special conditions prescribed by ordinance.

(g) A copy of a permit under this subsection shall be given to the municipal fire or law enforcement official at least 2 days before the date of authorized use.

(h) A permit under this subsection may not be issued to a minor.

(4) OUT-OF-STATE AND IN-STATE SHIPPING. This section does not prohibit a resident wholesaler or jobber from selling fireworks to a person outside of this state or to a person or group granted a permit under sub. (3) (c) 1. to 7. A resident wholesaler or jobber that ships the fireworks sold under this subsection shall package and ship the fireworks in accordance with applicable state and federal law by, as defined in s. 194.01 (1), (2) and (11), common motor carrier, contract motor carrier or private motor carrier.

(5) LOCAL REGULATION. (a) Subject to pars. (b) to (e), a city, village, town or county may enact an ordinance for any of the following:

1. Defining “fireworks” to include all items included under sub. (1) (intro.) and anything under sub. (1) (e), (f), (i), (j), (k), (L), (m) and (n).

2. Prohibiting the sale, possession or use, as defined by ordinance, of fireworks.

3. Regulating the sale, possession or use, as defined by ordinance, of fireworks.

(b) An ordinance under par. (a) may not be less restrictive in its coverage, prohibition or regulation than this section but may be more restrictive than this section.

(d) A county ordinance enacted under par. (a) does not apply and may not be enforced within any city, village or town that has enacted or enacts an ordinance under par. (a).

(e) Notwithstanding par. (a) or par. (b), no city, village, town or county may enact an ordinance that prohibits the possession of fireworks in that city, town, village or county while transporting the fireworks to a city, town, village or county where the possession of the fireworks is authorized by permit or ordinance.

(6) STORAGE AND HANDLING. (a) No wholesaler, dealer or jobber may store or handle fireworks in premises unless the premises are equipped with fire extinguishers approved by the fire official of the municipality where the premises are located.

(b) No person may smoke where fireworks are stored or handled.

(c) A person who stores or handles fireworks shall notify the fire official of the municipality in which the fireworks are stored or handled of the location of the fireworks.

(d) No wholesaler, dealer or jobber may store fireworks within 50 feet of a dwelling.

(e) No person may store fireworks within 50 feet of a public assemblage or place where gasoline or volatile liquid is dispensed in quantities exceeding one gallon.

(6m) LICENSING AND INSPECTING MANUFACTURERS. (a) No person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) without a fireworks manufacturing license issued by the department of commerce under par. (d).

(b) No person may manufacture in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) unless the person complies with the rules of the department of commerce promulgated under par. (e).

(c) Any person who manufactures in this state fireworks or a device listed under sub. (1) (e), (f) or (i) to (n) shall provide the department of commerce with a copy of each federal license issued under 18 USC 843 to that person.

(d) The department of commerce shall issue a license to manufacture fireworks or devices listed under sub. (1) (e), (f) or (i) to (n) to a person who complies with the rules of the department promulgated under par. (e). The department may not issue a license to a person who does not comply with the rules promulgated under par. (e). The department may revoke a license

under this subsection for the refusal to permit an inspection at reasonable times by the department or for a continuing violation of the rules promulgated under par. (e).

(e) The department of commerce shall promulgate rules to establish safety standards for the manufacture in this state of fireworks and devices listed under sub. (1) (e), (f) or (i) to (n).

(f) The department of commerce may inspect at reasonable times the premises on which each person licensed under this subsection manufactures fireworks or devices listed under sub. (1) (e), (f) or (i) to (n).

(7) PARENTAL LIABILITY. A parent, foster parent, treatment foster parent, family-operated group home parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

(8) ENFORCEMENT. (a) A city, village or town may petition the circuit court for an order enjoining violations of sub. (2), (3) or (6) or an ordinance adopted under sub. (5).

(b) Fireworks stored, handled, sold, possessed or used by a person who violates this section, an ordinance adopted under sub. (5) or a court order under par. (a) may be seized and held as evidence of the violation. Except as provided in s. 968.20 (4), only the fireworks that are the subject of a violation of this section, an ordinance adopted under sub. (5) or a court order under par. (a) may be destroyed after conviction for a violation. Except as provided in s. 968.20 (4), fireworks that are seized as evidence of a violation for which no conviction results shall be returned to the owner in the same condition as they were when seized to the extent practicable.

(9) PENALTIES. (a) A person who violates a court order under sub. (8) (a) shall be fined not more than \$10,000 or imprisoned not more than 9 months or both.

(b) A person who violates sub. (2), (3) or (6) or an ordinance adopted under sub. (5) shall forfeit not more than \$1,000.

(c) A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$1,000.

(g) Whoever violates sub. (6m) (a), (b) or (c) or a rule promulgated under sub. (6m) (e) may be fined not more than \$10,000 or imprisoned for not more than 15 years or both.